REMARKS

In the aforementioned Office Letter, the Examiner restricted the application into two groups, with Claims 1 to 13 in Group I and allegedly drawn to a pool cover system, and with Claims 14 to 16, drawn to Group II, allegedly drawn to a method of controlling movement of a pool cover. The Examiner took the position that the inventions are distinct because the method as claimed allegedly can be practiced by a materially different apparatus, or otherwise the apparatus as claimed allegedly can be used to practice a materially different process. Reconsideration of this position is respectfully urged.

At the very outset, it is urged that the Examiner has made a basic error in contending that the apparatus can be used to practice a different method or that the method can be used to operate with a different apparatus. All of the claims in this application, including both the method claims and the apparatus claims, call for the control of a swimming pool cover, and particularly, an automatic swimming pool cover. The applicant in this case has numerous U.S. issued patents in his name, and has numerous other patent applications now pending in the U.S. Patent and Trademark Office and in foreign countries. Consequently, this applicant is keenly aware of the state of the prior art. The applicant knows of no prior art dealing with automatic pool covers of this type and which use a cable extending from a hydraulic drive system to a power pack.

It is also noteworthy that this particular applicant, Mr. Harry Last, was one of the first parties to develop the use of a hydraulic or fluid drive system located in proximity to the pool cover in order to cause a driving movement of the pool cover, as well as a power pack located some distance from that pool cover. In this way, there is no electrical hazard at or near the swimming pool. The only portion of the power pack which ever reaches the hydraulic drive mechanism is the hydraulic fluid. As pointed out above, the applicant, Harry Last, is the first and only party to develop a truly effective pool cover system of this type.

Notwithstanding the foregoing, it is urged that there is no other automatic pool cover drive mechanism of the type shown herein. It is noteworthy that in this case there is a drive mechanism at a swimming pool, as best shown in Figures 1 and 2. Moreover, it can be observed that the drive mechanism only is connected to a power source such as an electric motor power source 102 through a cable, such as the cable 98. Again, the applicant wishes to emphasize that it is not aware of any system in which the power pack, including the electric motor 102, can be used to operate the drive system at the swimming pool with a cable per se. Consequently, it is believed that there is little or no possibility of another process being operated with the apparatus described and claimed in the instant application. In like manner, it is urged that there is no possibility of a materially different method being practiced with this apparatus. Consequently, it is believed that

this restriction is without foundation and reconsideration thereof is respectfully solicited.

It is also to be noted that the claims in this application which cover the apparatus as, for example, Claim 7, and claims which cover the method, as for example, Claim 14, are very similar in construction. Each call for the swimming pool cover to extend over a swimming pool, and in each claim it is powered by a type of drive means. Claim 7 calls for the cable reel and the cable spool located at a remote location, as well as a cable extending between the two. Claim 14, on the other hand, calls for providing a pulling force with a cable trained about the drum and a pulling force at a remote location. Thus, it can be seen that the method and the apparatus are very closely related.

Based on the foregoing, it is believed that an election of one of the inventions would ultimately necessitate an examination of the same prior art as if the applicant had elected to prosecute the other invention. Not only would the efforts on the part of the U.S. Patent and Trademark Office be duplicated by adherence to this restriction requirement, but the efforts on the part of the applicant would also be duplicated. Further, little would be gained by forcing the applicant to file a divisional application to prosecute the method in this application. It is urged that the same prior art would be developed in a search on the method as would be developed in a search on the apparatus.

In the event that the Examiner adheres to the restriction requirement, the applicant provisionally elects to prosecute the

claims of Group I, including Claims 1-13. Claims 14-16 are being held in abeyance at this time pending a reconsideration by the U.S. Patent and Trademark Office and possible divisional application, if necessary. Nevertheless, it is believed that the restriction requirement should be withdrawn, as indicated.

In view of the foregoing, favorable reconsideration of this restriction is respectfully urged.

Dated: March 5, 2002

Respectfully submitted,

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CERTIFICATE OF MAILING

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